

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

DEC 28 2022

KEVIN P. WEIMER, Clerk
By: [Signature] Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CHERLY L. SIMPSON,

Plaintiff,

vs.

CITY OF DOUGLASVILLE
ROCHELLE ROBINS ("MAYOR")
TRAVELERS INSURANCE HOLDINGS
JOHN AND JANE DOE,
A,B,C, COMPANIES.

Defendant.

CIVIL ACTION FILE

1:22-CV-5117

COMPLAINT PURSUANT TO O.C.G.A. §
51-3-1, OCGA § 51-1-6, OCGA § 51-1-2

COME NOW PLAINTIFF, CHERLY L. SIMPSON, and hereby files her Complaint, as follows:

1.

INTRODUCTION

Plaintiff Cheryl L. Simpson, was attempting to vote at the location of the Douglas County Courthouse aka the (old) historic courthouse at 6754 West Broad Street in Douglasville, Georgia on December 28th 2020. Plaintiff while being pushed on the sidewalk. This case also addresses the right to vote and access to the voting polls for disabled citizens.

2.

PARTIES

Plaintiff Cheryl Simpson located at 3094 Highland Ter., Lithia Springs Ga. 30122.
is a citizen of the State of Georgia.

3.

Defendant CITY OF DOUGLASVILLE, ROCHELLE ROBINS (“MAYOR”)
 (“Defendants”) are residents of Douglas County, Georgia at 6695 Church Street,
Douglasville, GA 30134 .

4.

Defendant TRAVELERS INSURANCE HOLDINGS INC. (“Travelers”) is a foreign
entity but registered in Georgia and may be served with process at Gerald L Baxter,
(Registered Agent) 3120 Breckinridge Blvd, Duluth, Georgia, 30199.

5.

JURISDICTION AND VENUE

6.

Subject matter jurisdiction is proper as the Superior Court has jurisdiction over all
causes, both civil and criminal, granted by the Constitution and laws of this State. Ga.
Const. art. VI, § 4, ¶ I; O.C.G.A. § 15-6-8 and O.C.G.A. § 9-4-2.

2.

Venue is proper in this Court pursuant to Ga. Const. art. VI, § 2, ¶ IV which allows suits involving joint obligors, joint tort-feasors, joint promisors, co-partners, or joint trespassers residing in different counties to be tried in either county.

Defendant Travelers is subject to the Jurisdiction of this Court pursuant to Ga. Code Ann. O.C.G.A. § 9-10-91 as it transacts business within this state and owns, uses, or possesses real property within this state. Because this sum exceeds \$75,000, the amount in controversy requirement is satisfied. See 28 U.S.C. § 1332(a).

FACTS APPLICABLE TO ALL COUNTS

7.

On December 28, 2022, Plaintiff Cheryl Simpson and husband Timothy Simpson were involved in a fall at the (Polling location after voting) on the City of Douglasville property (sidewalk), at Douglas County Courthouse aka the (old) historic courthouse at 6754 West Broad Street.

8.

Plaintiff entered the courthouse on the Westside of the Courthouse, and was told by an official working at the voting location that they must leave on using the Southside of the Courthouse.

9.

Plaintiff complained to her husband that she was tired and worn out and didn't want to walk back to their vehicle. Plaintiff husband suggested that she sit on her wheeled walker while he pushed her to the vehicle.

10.

While being pushed along the sidewalk, Plaintiff rode across a portion of the sidewalk that had an uneven gap in it. Plaintiff's walker tipped over, head first. Plaintiff landed on her head and side and Plaintiff's husband landed on the Plaintiff.

11.

Plaintiff was helped by the Douglas County Fire Department and driven to the WellStar Hospital in Douglasville Georgia the same day. Plaintiff suffered injuries by way of concussion, bruised ribs, and injury to her neck where she had a prior surgery on her neck.

12.

At all relevant times, Plaintiff exercised due care for her own safety.

NEGLIGENCE

13.

Defendant owed a duty of care to the public in general, and to Plaintiff in particular, to operate and maintain their property in a reasonable and prudent manner and to adhere to the pertinent Safety Standards and Guidelines for the State of Georgia.

14.

The Fall was directly and proximately caused by the negligence of Defendants.

15.

The Crash was directly and proximately caused by Defendant's negligence in failing to maintain the Public Sidewalk. See: 86 Am. Jur. Proof of Facts 3d, *Liability of Municipality or Abutting Landowner for Injury Caused by Defective Condition of Sidewalk, Sect. 327 (originally published in 2005)*; 88 A.L.R. 2d 331, *Liability of Abutting Owner or Occupant for Condition of Sidewalk, Sect. 331 (originally published in 1963)*.

16.

The Crash was directly and proximately caused by Defendant's negligence in failing to Maintain a safe distance or maintenance between concrete square in the sidewalk pursuant to the *Code of Ordinances Douglasville Georgia*.

17.

The Crash was directly and proximately caused by Defendant's negligence in failing to

18.

Defendant's actions constituted negligence *per se* regarding applicable laws and standards including, but not limited to: O.C.G.A. § 51-1-2, OCGA § 51-1-6, OCGA § 51-3-1.

19.

Failing to comply with the duty of care, in violation of O.C.G.A. § 51-1-2;

20.

Failing to comply with the duty of care, in violation of O.C.G.A. § 51-1-6;

21.

Failing to comply with the duty of care, in violation of O.C.G.A. § 51-3-1;

22.

Plaintiff's personal injuries were directly and proximately caused by Defendant's negligence.

DAMAGES

23.

Defendant is liable for Plaintiff's injuries and damages sustained, pain and suffering, and all other elements of damages allowed under the laws of the State of Georgia.

24.

Plaintiff contacted through the Lamonte E. Scott PC- law firm, the City of Douglasville and their insurance company Travelers Insurance in approximately November 2021 Travelers Insurance ultimately denied the claim I refuse to pay playing 2 medical expenses of approximately \$21,000.00. Plaintiff also had attorney Scott send the City of Douglasville an anti-litem notice during that time.

25.

Plaintiff has subsequently seen her practitioner and has been told she may be in need of another neck surgery. Defendant's actions evidence a species of bad faith, were through their refusal to pay have cost the Plaintiff this litigation and have caused Plaintiff undue expense. Thus, Plaintiff is entitled to recover her necessary expenses of litigation, including an award of reasonable attorney's fees and expenses required by this action, pursuant to O.C.G.A. § 13-6-11, as well as any other statutory or common law basis.

26.

Plaintiff seeks to and is entitled to recover for Personal injuries, Past, present, and future pain and suffering, Further Disability, Mental anguish, Loss of capacity for the enjoyment of life, Past, present, and future medical expenses, Permanent injuries, Consequential damages to be proven at trial.

27.

Plaintiff respectfully requests a Trial by jury against Defendant.

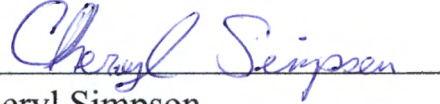
WHEREFORE PLAINTIFF PRAYS:

- A. Judgment be awarded to Plaintiffs and against Defendants;
- B. Plaintiff be awarded damages in amount \$21,000.00 for current medical expenses;
- C. Plaintiff be awarded damages in amount \$100,000.00 for future medical expenses;
- D. Plaintiff be awarded damages in amount \$50,000.00 for pain and suffering;
- E. Plaintiff be awarded damages for bad faith in amounts to be shown at trial;
- F. Plaintiff have such other relief as this Court deems just and appropriate.

VERIFICATION

I declare and state under penalty of perjury pursuant to 28 USC 1746 that the foregoing is true and correct to the best of my knowledge. Executed on this December 28, 2022.

Respectfully submitted this December 28, 2022.



Cheryl Simpson
3094 Highland Ter.,
Lithia Springs
Ga. 30122
Tel:404-468-4280
cherylsimpson2022@gmail.com

CERTIFICATE OF SERVICE

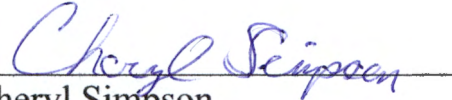
I hereby certify that on December 28, 2022, I filed the foregoing with a copy of same by U.S. Mail, postage prepaid, upon the following:

CITY OF DOUGLASVILLE GEORGIA 6695 Street, Douglasville, GA 30134;

ROCHELLE ROBINS 6695 Street, Douglasville, GA 30134;

TRAVELERS INSURANCE HOLDINGS INC. at Gerald L Baxter, (Registered Agent) 3120 Breckinridge Blvd, Duluth, Georgia, 30199.

Respectfully submitted this December 28, 2022.



Cheryl Simpson
3094 Highland Ter.,
Lithia Springs
Ga. 30122
Tel:404-468-4280
cherylsimpson2022@gmail.com

~~REDACTED~~

Cherly L. Simpson